

## 225.7604

(a) Purchases at or below the simplified acquisition threshold;

(b) Contracts for consumable supplies, provisions, or services for the support of United States forces or of allied forces in a foreign country; or

(c) Contracts pertaining to the use of any equipment, technology, data, or services for intelligence or classified purposes, or to the acquisition or lease thereof, in the interest of national security.

### 225.7604 Waivers.

The Secretary of Defense may waive this restriction on the basis of national security interests. To request a waiver, follow the procedures at PGI 225.7604.

[71 FR 62566, Oct. 26, 2006]

### 225.7605 Solicitation provision.

Unless an exception at 225.7603 applies or a waiver has been granted in accordance with 225.7604, use the provision at 252.225-7031, Secondary Arab Boycott of Israel, in all solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items. If the solicitation includes the provision at FAR 52.204-7, do not separately list 252.225-7031 in the solicitation.

[71 FR 39006, July 11, 2006, as amended at 78 FR 37988, June 25, 2013; 78 FR 40043, July 3, 2013]

## Subpart 225.77—Acquisitions in Support of Operations in Afghanistan

SOURCE: 73 FR 53153, Sept. 15, 2008, unless otherwise noted.

### 225.7700 Scope.

This subpart implements—

(a) Section 892 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181);

(b) Section 886 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181), as amended by section 842 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239);

(c) Section 826 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239); and

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(d) The determinations by the Deputy Secretary of Defense regarding participation of the countries of the South Caucasus or Central and South Asia in acquisitions in support of operations in Afghanistan.

[78 FR 59857, Sept. 30, 2013]

### 225.7701 Definitions.

As used in this subpart—

*Product from Afghanistan* means a product that is mined, produced, or manufactured in Afghanistan.

*Service from Afghanistan* means a service including construction that is performed in Afghanistan predominantly by citizens or permanent resident aliens of Afghanistan.

*Small arms* means pistols and other weapons less than 0.50 caliber.

*Source from Afghanistan* means a source that—

(1) Is located in Afghanistan; and

(2) Offers products or services from Afghanistan.

*Textile component* is defined in the clause at 252.225-7029, Acquisition of Uniform Components for Afghan Military or Afghan National Police.

[78 FR 59857, Sept. 30, 2013]

### 225.7702 Acquisitions not subject to the enhanced authority to acquire products or services from Afghanistan.

#### 225.7702-1 Acquisition of small arms.

(a) Except as provided in paragraph (b) of this section, when acquiring small arms for assistance to the Army of Afghanistan, the Afghan Police Forces, or other Afghan security organizations—

(1) Use full and open competition to the maximum extent practicable, consistent with the provisions of 10 U.S.C. 2304;

(2) If use of other than full and open competition is justified in accordance with FAR Subpart 6.3, ensure that—

(i) No responsible U.S. manufacturer is excluded from competing for the acquisition; and

(ii) Products manufactured in the United States are not excluded from the competition; and

(3) If the exception at FAR 6.302-2 (unusual and compelling urgency) applies, do not exclude responsible U.S.

manufacturers or products manufactured in the United States from the competition for the purpose of administrative expediency. However, such an offer may be rejected if it does not meet delivery schedule requirements.

(b) Paragraph (a)(2) of this section does not apply when—

(1) The exception at FAR 6.302-1 (only one or a limited number of responsible sources) applies, and the only responsible source or sources are not U.S. manufacturers or are not offering products manufactured in the United States; or

(2) The exception at FAR 6.302-4 (international agreement) applies, and United States manufacturers or products manufactured in the United States are not the source(s) specified in the written directions of the foreign government reimbursing the agency for the cost of the acquisition of the property or services for such government.

[73 FR 53153, Sept. 15, 2008. Redesignated and amended at 78 FR 59858, Sept. 30, 2013]

**225.7702-2 Acquisition of uniform components for the Afghan military or the Afghan police.**

Any textile components supplied by DoD to the Afghan National Army or the Afghan National Police for purpose of production of uniforms shall be produced in the United States.

[78 FR 59858, Sept. 30, 2013]

**225.7703 Enhanced authority to acquire products or services from Afghanistan.**

**225.7703-1 Acquisition procedures.**

(a) Subject to the requirements of 225.7703-2, except as provided in 225.7702, a product or service (including construction) in support of operations in Afghanistan may be acquired by—

(1) Providing a preference for products or services from Afghanistan in accordance with the evaluation procedures at 225.7703-3;

(2) Limiting competition to products or services from Afghanistan; or

(3) Using procedures other than competitive procedures to award a contract to a particular source or sources from Afghanistan. When other than competitive procedures are used, the contracting officer shall document the

contract file with the rationale for selecting the particular source(s).

(b) For acquisitions conducted using a procedure specified in paragraph (a) of this subsection, the justification and approval addressed in FAR Subpart 6.3 is not required.

[73 FR 53153, Sept. 15, 2008, as amended at 78 FR 59858, Sept. 30, 2013]

**225.7703-2 Determination requirements.**

Before use of a procedure specified in 225.7703-1(a), a written determination must be prepared and executed as follows:

(a) For products or services to be used only by the military forces, police, or other security personnel of Afghanistan, the contracting officer shall—

(1) Determine in writing that the product or service is to be used only by the military forces, police, or other security personnel of Afghanistan; and

(2) Include the written determination in the contract file.

(b) For products or services not limited to use by the military forces, police, or other security personnel of Afghanistan, the following requirements apply:

(1) The appropriate official specified in paragraph (b)(2) of this subsection must determine in writing that it is in the national security interest of the United States to use a procedure specified in 225.7703-1(a), because—

(i) The procedure is necessary to provide a stable source of jobs in Afghanistan; and

(ii) Use of the procedure will not adversely affect—

(A) Operations in Afghanistan (including security, transition, reconstruction, and humanitarian relief activities); or

(B) The U.S. industrial base. The authorizing official generally may presume that there will not be an adverse effect on the U.S. industrial base. However, when in doubt, the authorizing official should coordinate with the applicable subject matter expert specified in PGI 225.7703-2(b).

(2) Determinations may be made for an individual acquisition or a class of acquisitions meeting the criteria in